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10/605,829	10/29/2003	Dwayne Vander Schaaf	81044497/FMC1605PUS	2828
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BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			ANDERSON, FOLASHADE	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/605,829	SCHAAF ET AL.	
	Examiner	Art Unit	
	FOLASHADE ANDERSON	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 October 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 29 October 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 03/11/2004, 10/29/2003.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

1. This is the first non-final office action in response to Applicant's submission filed on 10/29/2003. Currently, claims 1-20 are pending. Information disclosure statement filed 03/11/2004 and 10/29/2003 were reviewed and considered in this action.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: *paragraphs 0024, 0026, 0031 indicates sign 10 of figure 1 as a system, paragraph 0024 indicates sign 12 of figure 1 as multiple plant manufacturing system.* Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p) (5) because they include the following reference character(s) not mentioned in the description: *see sign 34 of figure 1.* Corrected drawing sheets in compliance with 37 CFR

1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification Objections

4. The disclosure is objected to because of the following informalities: Paragraph 0026 currently reads "...and *third* 10 plant provides for..." it should be corrected to read "...and *third* 20 plant provides for..." and paragraph 0035 currently reads "*The LRPT 10 includes a number...*" it should be corrected to read "*The LRPT 30 includes a number...*" Appropriate correction is required.

Further the Examiner finds the wording of paragraph 0074 confusing. Currently it reads as " Figure 4 illustrates an exemplary flowchart 100 which is stored in an electronic medium of the computer 36 for use by..." there is no sign 36 in figure 4 the Examiner assume the reference is made to sign 36 of figure 1. As such it is suggested that Applicant add "*Figure 4 illustrates an exemplary flowchart 100 which*

is stored in an electronic medium of the computer 36 of figure 1 for use by..." as a means of clarification.

Additionally due to the lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herer et al (Determining the size of the temporary workforce, published 1998).

In regards to claims 1 and 9 Herer discloses in an analogously art:

- **receiving a first plant human resource requirement for a first plant of the manufacturing system** (p. 4-5; where the probability of distribution of the number of works required would be the same as the human resource requirement.)
- **calculating in a computer a first plant human resource difference for the first plant and a second plant human resource difference for the second plant based on the computer automatically comparing the first and second**

plant human resource requirements against respective first and second plant predefined human resource allocations (p. 12; where workers needs are compared at various locations to determine an over or under staffed situation based on the workers assigned to each location); **and**

- **determining a need to hire a new employee for the first plant if both**
 - (i) the first plant human resource difference indicates a first plant human resource deficiency such that the new employee is needed by the first plant to satisfy the first plant human resource requirement, and**
 - (ii) the second plant human resource difference indicates that the second plant cannot allocate second plant human resources from the second plant to the first plant to cover the first plant human resource deficiency.** (p. 6-7 and 11-12; where it is noted that the logic disclosed in the first scenario of single period problem without fixed cost can be applied to a multi-location problem)

Herer does not expressly teach **and receiving a second plant human resource requirement for a second plant of the manufacturing system**; however it would have been obvious to one of ordinary skill in the art at the time the invention was made that if forecasting of the human resource requirement could have been done at one plant then the process could be repeated at the second plant.

The Examiner notes that in general, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to use the inventory modeling approach as a method for planning and scheduling of current plant employees as well

as for the determination of if a plant should hire new employees. One of ordinary skill in the art at the time the invention was made would have been motivated to us the teachings of Herer to develop hiring strategies based on quantitative inputs (p. 12).

In regards to claim 9, which is the system used to implement claim 1 is rejected for substantially the same reasons given with regards to claim 1. While Herer is silent on how his teachings are implemented, it is old and well known in the art that a manual process could be made automated for the purpose of speed and reliability for example. And as such it has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958). Therefore in the art of human resource management it was old and well known that a computer system is used for purpose of processing various data input in order to output hiring, forecasting and scheduling needs.

In regards to claims 4 and 12 Herer teaches a method to **determining the need to hire the new employee further comprising verifying the first plant human resource deficiency to insure only authentic needs to hire a new employee are determined** (p. 7; where Herer uses a simplified example of the verification process however the Examiner notes that the day of example of Herer could be equated to a booked order in the manufacturing environment and thus the need for new or additionally resources).

In regards to claim 12, which is the system used to implement claim 4 is rejected for substantially the same reasons given with regards to claim 4. While Herer is silent

on how his teachings are implemented, it is old and well known in the art that a manual process could be made automated for the purpose of speed and reliability for example. And as such it has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958). Therefore in the art of human resource management it was old and well known that a computer system is used for purpose of processing various data input in order to output hiring, forecasting and scheduling needs.

In regards to claims 5 Herer teaches **verifying the first plant human resource deficiency** (p. 7); however Herer is silent on how this information is received. Therefore Herer does not expressly teach that the verification **comprises receiving the first plant human resource requirement in a first plant labor resource planning report, wherein the first plant labor resource planning report includes a number of predefined fields to be filed in by the first plant for the purpose of providing a breakdown of the first plant human resource requirement according to the predefined fields.**

Official notice is taken that reports containing predefined fields were old and well known in the art at the time the invention was made for the purpose of conveying information.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the old and well known technique of reports containing predefined fields to convey information regarding human resource planning needs. For

instance in the simplified example of Herer (p. 7) it would have been obvious to one of ordinary skill in the art to take the information of how many workers were needed compared to the number of core workers and temporary workers to determine the spare or shortage information is the predefined fields of a report in order to convey this information to a user.

In regards to claims 6 Herer is silent on **the first labor resource planning report is a computer-readable spreadsheet and wherein calculating in the computer the first human resource difference for the first plant comprises the computer automatically comparing the first plant predefined human resource allocation and the first labor resource planning report to output a first human resource difference forecast which indicates in each field of the first labor resource planning report the corresponding human resource differences.**

Herer does teach calculations that will determine the human resource difference (p. 8, 11-12, and 15-17). It has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958) and *In re Rundell*, 9 USPQ 220 (CCPA 1931).

In regards to claims 7 Herer teaches **the received human resource requirements include a three month forecast of human resource requirements for the first plant and wherein verifying the human resource deficiency of the first plant comprises determining the human resource deficiency of the first plant extends beyond 90 days** (p. 10-11).

In regards to claims 8 Herer teaches **comprising determining a need to hire a temporary employee if the human resource deficiency of the first plant fails to extend beyond 90 days** (p. 11-12).

7. Claims 2, 3, 10-16 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herer et al (Determining the size of the temporary workforce, published 1998) as applied to claims 1 and 9 above and further in view of Gleditsch et al (US Patent 6,393,332 B1).

In regards to claims 2 and 10, Herer is silent on **determining the need to hire the new employee further comprises comparing a first plant production schedule and the first plant human resource difference to determine that the first plant production schedule cannot be changed to cover the first plant human resource deficiency.**

Gleditsch teaches in an analogous art that manufacturing schedules cannot be easily altered; as such relationships and constraints associated with the process must be accurately modeled in order to minimize material disruptions (col. 2, lines 48-67 and col.3, lines 1-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Gleditsch, the accurate modeling of resource needs in light of un-easily adjustable schedule, in association with the human resource inventory modeling of Herer to schedule manufacturing resources (human

resources) automatically adjust the demand, based on the parameters relating to the resource (Gleditsch col. 3, lines 38-40).

In regards to claim 10, which is the system used to implement claim 2 is rejected for substantially the same reasons given with regards to claim 2. While Herer is silent on how his teachings are implemented, it is old and well known in the art that a manual process could be made automated for the purpose of speed and reliability for example. And as such it has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958). Therefore in the art of human resource management it was old and well known that a computer system is used for purpose of processing various data input in order to output hiring, forecasting and scheduling needs.

In regards to claim 3 and 11 Herer is silent on **determining the need to hire the new employee further comprises comparing a second plant production schedule and the second plant human resource difference to learn that the second plant production schedule cannot be changed to allocate second plant human resources to the first plant to cover the first plant human resource deficiency.**

It has been held that the mere duplication of parts has no patentable significance unless new and unexpected result is produced, see *In re Harza*, 124 USPQ 378 (CCPA 1960). It is the Examiner understanding that these limitations to be a duplication of claim 2 and 10 respectively and as such is rejected for substantially the same reason given above with regards to claims 2 and 10.

In regards to claim 13, which is the system used to implement claim 5 is rejected for substantially the same reasons given with regards to claim 5. While Herer is silent on how his teachings are implemented, it is old and well known in the art that a manual process could be made automated for the purpose of speed and reliability for example. And as such it has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958). Therefore in the art of human resource management it was old and well known that a computer system is used for purpose of processing various data input in order to output hiring, forecasting and scheduling needs.

In regards to claim 14, which is the system used to implement claim 6 is rejected for substantially the same reasons given with regards to claim 6. While Herer is silent on how his teachings are implemented, it is old and well known in the art that a manual process could be made automated for the purpose of speed and reliability for example. And as such it has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958). Therefore in the art of human resource management it was old and well known that a computer system is used for purpose of processing various data input in order to output hiring, forecasting and scheduling needs.

In regards to claim 15, which is the system used to implement claim 7 is rejected for substantially the same reasons given with regards to claim 7. While Herer is silent

on how his teachings are implemented, it is old and well known in the art that a manual process could be made automated for the purpose of speed and reliability for example. And as such it has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958). Therefore in the art of human resource management it was old and well known that a computer system is used for purpose of processing various data input in order to output hiring, forecasting and scheduling needs.

In regards to claim 16, which is the system used to implement claim 8 is rejected for substantially the same reasons given with regards to claim 8. While Herer is silent on how his teachings are implemented, it is old and well known in the art that a manual process could be made automated for the purpose of speed and reliability for example. And as such it has been held that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result, see *In re Venner*, 120 USPQ 192 (CCPA 1958). Therefore in the art of human resource management it was old and well known that a computer system is used for purpose of processing various data input in order to output hiring, forecasting and scheduling needs.

In regards to claim 17 which recites limitation that are similar to claim1 as such is rejected for substantially the same reasons given with regards to claim 1. Claim 17 recites the additional limitations of **(iii) a first plant production schedule cannot be changed to cover the first plant human resource deficiency.** This limitation is added

to the third bullet of Claim 1. Herer is silent on additional constraints one of ordinary skill in the art might consider in regards to the field of manufacturing as it relates to the hiring of additional workers.

Gleditsch teaches in an analogous art that manufacturing schedules cannot be easily altered; as such relationships and constraints associated with the process must be accurately modeled in order to minimize material disruptions (col. 2, lines 48-67 and col.3, lines 1-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Gleditsch, the accurate modeling of resource needs in light of un-easily adjustable schedule, in association with the human resource inventory modeling of Herer to schedule manufacturing resources (human resources) automatically adjust the demand, based on the parameters relating to the resource (Gleditsch col. 3, lines 38-40).

In regards to claim 18, which is similar to claim 4, is rejected for substantially the same reasons given with regards to claim 4.

In regards to claim 19, which is similar to claim 5, is rejected for substantially the same reasons given with regards to claim 5.

In regards to claim 20, which is similar to claim 7, is rejected for substantially the same reasons given with regards to claim 7.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Falcone (Temp to Perm; An Alternative Strategy, published June 1993) teaches motivation to use flexible staffing arrangements
- Benbassat et al. (US Patent 6,985,972 B2) teaches forecasting human resource needs of a specified time period.
- Kiran et al. (US Publication 2004/0010437 A1) teaches forecasting human resource needs of a specified time period.
- Arguello et al (US Publication 2003/0139961 A1) teaches for forecasting human resource needs of a specified time period and the internal transfer of employees

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FOLASHADE ANDERSON whose telephone number is (571)270-3331. The examiner can normally be reached on Monday through Thursday 8:00 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Folashade Anderson/
Examiner, Art Unit 3623

/Beth Van Doren/
Primary Examiner, Art Unit 3623